

## WATER COUNCIL MEETING

Dept. of Environmental Services  
29 Hazen Dr., Concord, N.H.

December 10, 2003  
9:00 a.m.

**Members present:** Councilors Bridges, Bradley; Butler; Cowan; Densberger; DiMarzio; Frost, Funk; Ingham, Lyons, Patenaude, Phillips and Varotsis

**Members absent:** Councilor Flynn or his designee, David Barrett; Councilor Stephen or his designee, Brook Dupee

**Vacancies:** Appointee representing agricultural interests.

Chairman Bridges opened the meeting at approximately 9:00 a.m.

(1) **Approval of Minutes of October 8, 2003 Meeting**

***A motion was made by Councilor Bradley to accept the minutes of the October 8, 2003 meeting. Councilor Varotsis seconded the motion and it was unanimously voted.***

(2) **Approval of State Aid Grants**

Stephen Snell, Wastewater Engineering Bureau, presented a list of municipal projects to receive state aid as set forth in John Bush's memoranda of November 28, 2003 and December 10, 2003. Mr. Snell requested Council approval of processing for such payments.

***Councilor Varotsis moved to approve the amended grants and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Bradley seconded the motion and the vote was unanimous.***

WHEREAS, The following municipalities are eligible for amended grants, under the provisions of RSA 486, in the amount listed to aid in the defraying of the original costs resulting from the construction of sewage disposal facilities, as defined in said Chapter:

<u>Municipality</u>	<u>Proj. No.</u>	<u>PROJECT DESCRIPTION</u>	<u>AMENDED AMOUNT</u>
Bow	C-487	Phase III Sewers	\$275,340
Exeter	C-633	Water Street Area Sewer Separation	232,317
WRBP	C-645	Laconia Compound Improvements, Phase I	13,668
Derry	C-652	Lagoon No. 3 Liner Replacement	195,974
Newmarket	C-658	Packers Falls Road and Cedar Street Pumping Station Upgrades	13,987

WHEREAS, The Department of Environmental Services has examined the final project costs as to the eligibility for increased State contributions; and

WHEREAS, The Water Council finds that said projects are intended to control or reduce pollution in the surface waters of the State, as defined in RSA 485-A;

WHEREAS, The Department of Environmental Services has made tentative offers of said grant amendments, subject to final approval and authorization by the Governor and Executive Council; and

WHEREAS, The listed municipalities have accepted the tentative offers; and

WHEREAS. These projects are now complete and final eligible project costs have been determined. Based on these final costs the State Aid Grants for these projects have been recalculated and are greater than the grant amounts approved by the Governor and Executive Council. It should be noted that the present State grant in the amount of \$266,458 for the Town of Bow was approved by the Governor and Executive Council on July 10, 1996; the present State grant in the amount of \$212,359 for the Town of Exeter was approved by the Governor and Executive Council on October 23, 2002; the present State grant in the amount of \$9,272 for the Winnepesaukee River Basin Program was approved by the Governor and Executive Council on April 2, 2003; the present State grant in the amount of \$194,607 for the Town of Derry was approved by the Governor and Executive Council on July 16, 2003; and the present State grant in the amount of \$13,945 for the Town of Newmarket was approved by the Governor and Executive Council on November 5, 2003.

NOW THEREFORE, The Water Council finds that all of the provisions of RSA 486 have been met by said grantees, and respectfully recommends that the Governor and Executive Council approve said grant increases of \$8,882; \$19,958; \$4,396; \$1,367; and \$42 respectively and authorize payment thereof through the Department of Environmental Services, as provided for in said Chapter.

**(3) Proposed Amendments to Env-Ws 386 – Protecting the Purity of Regulated Watersheds**

Paul Susca, Water Supply Engineering Bureau, presented proposed amendments to Env-Ws 386, "Protecting the Purity of Regulated Watersheds." The rules cover 30 active public water supply sources serving 420,000 New Hampshire residents. Mr. Susca explained that the amendments are a critical part of DES's efforts to maintain safe and palatable drinking water for community systems. Treatment alone is not enough and the current approach is to work with water suppliers as well as local officials to design prevention and protection rules to balance the desire for pristine source water and the historical uses for each waterbody.

Mr. Susca indicated that Section 64, Lake Sunapee, is being withdrawn at this time since litigation is pending. It is anticipated that by the spring there will be some resolution and work on the proposal can go forward.

Mr. Susca requested that the Councilors contact him with any comments on the rules within the next 15 days.

**(4) Appeals Update**

- **Docket No. 03-09 WC, Appeal of Town of Chester Conservation Commission**

A pre-hearing conference was held on November 3, 2003. As a result, the hearing has been rescheduled to February 11, 2004 at 10:00 a.m.

- **Docket No. 03-10 WC, Appeal of Conservation Law Foundation**

On October 14, 2003 Attorney McNeill filed on behalf of the applicant an objection to the Motion to Stay. On November 3, 2003 Attorney Irwin on behalf of the Conservation Law Foundation requested that a ruling be made on the Motion to Stay. After conferring with several councilors, on November 4, 2003 Chairman Bridges granted the Motion to Stay with the condition that the parties present a status report to the Council at its January 14, 2004 meeting.

- **Docket No. 03-12 WC USA Springs, Inc. Appeal**

A stay is in effect in this case. The parties are to appear before the Council at its January 14, 2004 meeting to present a status report.

- **Docket No. 03-14 WC Appeal of Gerald A. Bell**

An appeal hearing is scheduled on January 14, 2004. A pre-hearing conference will be scheduled prior to the hearing.

- **Docket No. 03-15 WC Appeal of Lamprey Suburban, Inc.**

A notice of appeal was filed on November 5, 2003 appealing an Administrative Order to cease all discharges to the Lamprey Septage Lagoon Facility and to implement a closure plan. The petition was timely filed and appears to conform with Council rules.

***Councilor Butler moved to accept the appeal of Lamprey Suburban, Inc. Councilor Phillips seconded the motion and it was unanimously voted. Councilor Cowan recused himself from the discussion and vote.***

A pre-hearing conference will be scheduled on this appeal.

- **Docket No. 03-19 WC Pennichuck Brook Watershed Council**

A petition for appeal was hand-delivered to DES for the Wetlands Council on December 5, 2003. After reviewing the petition, Mr. Sclafani noted that the petition was appealing a site specific permit, which should be appealed to the Water Council. On December 5, Mr. Sclafani advised the petitioner that the filing should be directed to the Water Council and that there were several deficiencies in the petition which would need to be corrected. On Monday, December 8, 2003, the petitioner re-filed the appeal with the Water Council but did not correct the numerous other deficiencies. The appellant further requested that the cover letter be considered as a motion to waive the administrative rules to allow a late filing. After discussion the following vote was taken:

***Councilor Patenaude made a motion to dismiss the appeal as not timely filed. Councilor Butler seconded the motion and it was unanimously voted. Councilors Densberger and Frost recused themselves from the discussion and vote.***

**(5) Other Business**

- Russ Nylander, P.E. briefly reviewed upcoming legislation.
- Council meeting cancellation procedure was briefly discussed. Meetings will be held if there is any action to be taken on an appeal. If a meeting is cancelled, the Council Clerk will notify the Councilors by e-mail or telephone. Councilor Butler requested that the Council be informed of pre-hearing conference dates and that status reports be sent to the Councilors if a monthly meeting is not held. Vice Chairman DiMarzio will request that the Appeals Clerk e-mail the councilors a summary of pre-hearing conference proceedings.
- The Office of the Attorney General is sponsoring its annual judicial training program for state agencies in April. Several councilors spoke highly of the previous year's program and encouraged those who have not attended the program to do so.

**(6) Next Meeting**

The next meeting will be January 14, 2004.

**(7) Adjournment**

The meeting adjourned at approximately 9:55 a.m.